

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JONATHAN B. McCORD,

Petitioner,

v.

JESSICA DIETEL, Agent, DOC-DCC,

Respondent.

ORDER

12-cv-661-bbc

Petitioner Jonathan McCord, a inmate at the Dane County Jail in Madison, Wisconsin, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner includes a request for leave to proceed *in forma pauperis* and has submitted a copy of his six-month trust fund account statement so that I can determine whether he qualifies for indigent status and, if he does, calculate an initial partial payment of the \$5 fee for filing.

In determining whether to allow a prisoner to proceed *in forma pauperis*, this court uses the following formula. First, the court determines petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Applying this formula to petitioner, I find that he is able to pay the filing fee. According to the trust account statement, in the past six months petitioner's monthly deposits have averaged \$15.84. Twenty percent of this figure is \$3.17. Accordingly, I will deny petitioner's application for leave to proceed *in forma pauperis*. To proceed further on his habeas petition, petitioner must pay the \$5 filing fee. If he fails to pay the fee by October 4, 2012, his petition will be dismissed for his failure to prosecute it.

ORDER

IT IS ORDERED that the petition of Jonathan McCord for leave to proceed *in forma pauperis* is DENIED. Petitioner has until October 4, 2012 in which to pay the \$5 filing fee. If he fails to submit the fee by October 4, 2012, his petition will be dismissed for failure to prosecute it.

Entered this 13th day of September, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge